

LISA A. CERVANTES, Cal. Bar No. 203046  
CERVANTES & ASSOCIATES ENTERTAINMENT LAW  
1039 26th Street  
Santa Monica, California 90403  
Telephone: (323) 333-2553  
Facsimile: (310) 315-1404  
E-mail: musiclaw@sbcglobal.net

Attorneys for Defendants  
LESLIE A. CABEZAS and MANUEL E. CABEZAS,  
dba ANANDA CENTER

MCGUIREWOODS LLP  
TRACY EVANS-MOYER, SBN 243212  
1800 Century Park East, 8<sup>th</sup> Floor  
Los Angeles, California 90067  
Telephone: (310) 315-8200  
Facsimile: (310) 315-8210

Attorneys for Plaintiff  
IHHR Hospitality Private Limited

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

IHHR HOSPITALITY PRIVATE  
LIMITED,

Plaintiff,

v.

LESLIE A. CABEZAS and  
MANUEL E. CABEZAS,  
dba ANANDA CENTER,

Defendants.

Civil Case No. 08CV 0540 LAB (AJB)

**JOINT REPORT OF THE  
PARTIES PURSUANT TO  
FEDERAL RULE OF CIVIL  
PROCEDURE 26(F)**

Case Management Conference

Date: June 11, 2008

Time: 10:00 a.m.

THE HONORABLE JUDGE  
ANTHONY J. BATTAGLIA

**JOINT REPORT OF THE PARTIES PURSUANT TO  
FEDERAL RULE OF CIVIL PROCEDURE (FRCP) 26(F)**

Pursuant to Federal Rule of Civil Procedure 26(f), the parties held a telephone conference on May 19, 2008 at 2:00 p.m. The conference was attended by George Spatz, counsel for Plaintiff, IHHR Hospitality Private Limited ("IHHR"), and Lisa A. Cervantes,

counsel for Defendants Leslie A. Cabezas and Manuel E. Cabezas d/b/a Ananda Center (“Ananda Center”). Plaintiff and Defendants, by their respective undersigned attorneys, hereby submit this Joint Initial Status Report, stating as follows:

#### **PLAINTIFF’S CLAIMS**

Plaintiff claims (i) federal trademark infringement under the Lanham Act, 15 U.S.C. § 1114, (ii) federal unfair competition under the Lanham Act, 15 U.S.C. § 1125(a), (iii) violation of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c), (iv) violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), and (v) ancillary California state law claims. Plaintiff asserts federal question jurisdiction, 28 U.S.C. § 1331 and 28 U.S.C. § 1338 and supplemental jurisdiction, 28 U.S.C. § 1367(a). Plaintiff alleges that Defendants have infringed its rights in Plaintiff’s ANANDA mark (Reg. No. 3,011,041) by adopting an identical mark and the domain name [www.anandacenter.com](http://www.anandacenter.com) for identical services. Plaintiff seeks injunctive relief and damages.

#### **DEFENDANTS’ CLAIMS**

IHHR sued Leslie Cabezas and Manuel Cabezas, dba Ananda Center for federal trademark infringement, unfair competition, violation of 15 U.S.C. § 1125(d), and ancillary California state law claims, claiming that Defendants’ local business in San Diego since 2000 causes confusion with IHHR’s hotel and spa in India as to “spa services.” Defendants deny all of Plaintiff’s claims and contend that Plaintiff cannot prove (1) priority of use; (2) continuous use; (3) that the service mark of Plaintiff extends to Defendant’s use; (4) that the mark registered by Plaintiff is not generic or descriptive. Defendants created and has continuously used their domain name [www.anandacenter.com](http://www.anandacenter.com) since January 2003, 3 years prior to Plaintiff’s trademark registration.

In addition, Defendants contend their use is protected under common law, and falls squarely into the “the limited area defense” because their mark was adopted without knowledge of the registrant’s use, and has been continuously used by Defendants from a date 5 years prior to registration of the mark by Plaintiff.

1 Defendants contend that Plaintiff asserts fraudulent claims and brought this action in  
2 bad faith. Defendants seek summary adjudication in their favor as well as attorney  
3 fees and costs of suit.

4 **POTENTIAL FOR ADR PROCEEDINGS**  
5 **AND/OR PROMPT SETTLEMENT**

6 The parties discussed the possibility of proceeding with and a  
7 willingness to attend an additional judicial mediation following any summary  
8 judgment motions.

9 **PRESERVATION OF POTENTIALLY DISCOVERABLE MATERIAL**

10 Plaintiff represented that all discoverable material within its custody,  
11 possession or control was being preserved in accordance with its obligations.  
12 Defendants represented that all discoverable material within their custody,  
13 possession or control was being preserved in accordance with their obligations.  
14 Issues relating to electronically stored information are discussed below in this  
15 report. Counsel for all parties have advised their clients of their duties to preserve  
16 materials.

17 **SUBJECTS ON WHICH DISCOVERY MAY BE NEEDED**

18 **PLAINTIFF'S DISCOVERY SUBJECTS**

19 Plaintiff's subjects of discovery include: the allegations set forth in the  
20 Complaint; representations/communications with third parties by Defendants; the  
21 statements, allegations and admissions made in Defendants' answers, the  
22 documentation and communications of Defendants. Plaintiff anticipates taking the  
23 deposition of defendants, their employees, and third party purchasers of Defendants'  
24 services. Expert testimony and discovery may also be necessary.

25 **DEFENDANTS' DISCOVERY SUBJECTS**

26 Defendants intend to conduct discovery on the following topics: the claims  
27 asserted in Plaintiff's COMPLAINT; as well as all asserted defenses thereto; Plaintiff's  
28 alleged damages; Plaintiff's alleged "advertisements"; Plaintiff's application for

1 registration to the United States Patent & Trademark Office; any alleged confusion,  
 2 infringement between Plaintiff's trademark and Defendants' business name.  
 3 Defendants will take the depositions of Plaintiff, its employees, and third party  
 4 purchasers of Plaintiff's services, as well as propound discovery on  
 5 representations/communications with third parties by Plaintiff including statements,  
 6 allegations and admissions contained in Plaintiff's Complaint. Expert testimony and  
 7 discovery may also be necessary.

### 8 **ELECTRONICALLY STORED INFORMATION**

9 Plaintiff and Defendants each represented that there were no issues with the  
 10 production of electronically stored information and that such information would  
 11 most likely be produced in hard copy form, although depending on the nature of the  
 12 request and the information, some may be produced electronically, if that is more  
 13 practical.

### 14 **PROPOSED DISCOVERY PLAN**

15 Plaintiff and Defendants intend to notice and schedule depositions of  
 16 principals and any other witnesses over the next 3-5 months. Plaintiff and  
 17 Defendants intend to propound document requests, interrogatories, requests for  
 18 admission, and Rule 45 subpoenas for documents and depositions if necessary.

### 19 **PROPOSED PRE-TRIAL AND TRIAL DATES**

20 The following are the events that have occurred so far in this action:

21 COMPLAINT filed:	March 24, 2008
22 ANSWER TO COMPLAINT filed:	April 28, 2008
23 ORDER SETTING ENE filed:	April 30, 2008
24 Rule 26(f) conference held:	May 19, 2008
25 Scheduling Conference:	June 11, 2008, 10:00 a.m.

26 The parties propose the following pre-trial and trial dates:  
 27  
 28

EVENT	PROPOSED DATE
Last day to provide initial disclosures [FED. R. CIV. P. 26(a)(1)(C)]	June 11, 2008
Last day to add parties and amend the pleadings [FED. R. CIV. P. 16(b)(3)(A)]	August 2, 2008
Last day to complete WRITTEN fact discovery (not including hearing motions to compel) [FED. R. CIV. P. 16(b)(3)(A)]	October 11, 2008
Last day to complete ORAL fact discovery (not including hearing motions to compel) [FED. R. CIV. P. 16(b)(3)(A)]	December 11, 2008
Last day to provide initial expert reports (90 days before trial) [FED. R. CIV. P. 26(a)(2)(C)(i)]	February 28, 2009
Last day to provide rebuttal expert reports (30 days after the initial expert disclosures) [FED. R. CIV. P. 26(a)(2)]	March 30, 2009
Last day to complete expert discovery [FED. R. CIV. P. 16(b)(3)(A)]	April 30, 2009
Last day to file dispositive motions	May 15, 2009
Final pre-trial conference [FED. R. CIV. P. 16(b)(3)(B)(v)]	July __, 2009
Trial (5 court days) [FED. R. CIV. P. 16(b)(3)(B)(v)]	August __, 2009

### **OTHER MOTIONS**

The Parties agree, pursuant to Rule 26(f)(3)(F), that the Court will not need to issue further orders pursuant to Rule 26(c) or 16(b), other than a protective order governing the disclosure and use of the parties' confidential information.

**COMPLEX CASE**

The parties agree this is not a complex case under Local Rule 26-1(a).

**TRIAL DAYS**

Because of the number of parties involved, the parties presently expect that five **(5) court days** will be needed for this jury trial. The parties do not consent to proceeding to trial before a Magistrate Judge.

**ADDITIONAL PARTIES**

Pursuant to Local Rule 26-1(e), neither party knows at this time whether additional parties will be added to the lawsuit. Neither party anticipates adding any parties.

Dated: May 20, 2008

CERVANTES & ASSOCIATES  
ENTERTAINMENT LAW

By /s/ Lisa A. Cervantes

LISA A. CERVANTES  
Attorneys for Defendants  
LESLIE A. CABEZAS and  
MANUEL E. CABEZAS,  
dba ANANDA CENTER

MCGUIREWOODS LLP

By: /s/ Tracy Evans Moyer

Tracy Evans-Moyer  
Attorneys for IHHR Hospitality Private  
Limited